

House Bill 1EX (AS PASSED HOUSE AND SENATE)

By: Representatives O`Neal of the 146th, Keen of the 179th, Smith of the 129th, Roberts of the 154th, and Golick of the 34th

A BILL TO BE ENTITLED
AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to provide for an exemption for a limited period of time with respect to state taxes applicable to certain motor fuels; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the administrator of Part 2 of Article 15 of Chapter 10 of Title 10 of the Official Code of Georgia Annotated, the "Fair Business Practices Act," as amended; to provide for powers, duties, and authority of the state revenue commissioner with respect to the foregoing; to ratify an executive order of the Governor suspending the collection of such taxes; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

The Executive Order of the Governor dated September 2, 2005, and filed in the official records of the Office of the Governor as Executive Order 09.02.05.01 which suspended the collection of state sales and use taxation, state excise taxation, and the second motor fuel tax, as those taxes apply to gasoline, dyed fuel oils, aviation gasoline, liquid propane gas, and other special fuels, including, but not limited to, gasohol, ethanol, liquified natural gas, or compressed natural gas, and excluding jet fuel, is ratified by the General Assembly of Georgia.

SECTION 2.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by adding a new Code section immediately following Code Section 48-9-19, to be designated Code Section 48-9-20, to read as follows:

"48-9-20.

(a) For the time period commencing as specified in the Executive Order of the Governor dated September 2, 2005, and filed in the official records of the Office of the Governor as

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Executive Order 09.02.05.01 and the time period concluding at the last moment of September 30, 2005, state sales and use taxation pursuant to Code Section 48-8-3.1, state excise taxation pursuant to Code Section 48-9-3, and the second motor fuel tax pursuant to Code Section 48-9-14, as those taxes apply to aviation gasoline and to motor fuel used to propel motor vehicles for use on or off public highways including gasoline, clear fuel oils, dyed fuel oils, liquid propane gas, and other special fuels, including, but not limited to, gasohol, ethanol, liquified natural gas, or compressed natural gas, and excluding jet fuel, shall be governed by the provisions of this Code section notwithstanding any provisions of Code Sections 48-8-3.1, 48-9-3, and 48-9-14, or any other law, to the contrary.

(b) Sales or use of fuels described in subsection (a) of this Code section shall be fully exempt from the 4 percent state sales and use tax levied and imposed under Chapter 8 of this title. The temporary sales and use tax exemption provided for in this subsection shall not apply to local sales and use taxes levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, known as the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or pursuant to Article 2, 2A, 3, or 4 of Chapter 8 of this title. Such local taxes shall remain applicable to sales of such fuels.

(c) Distributors who sell or use fuels described in subsection (a) of this Code section within this state shall be exempt from the 7 1/2¢ per gallon excise tax levied and imposed under Code Section 48-9-3.

(d) Sales or use of fuels described in subsection (a) of this Code section shall be exempt from the 3 percent second motor fuel tax levied and imposed under Code Section 48-9-14.

(e) The failure of the distributor or the seller to pass through to the purchaser of any of the fuels described in subsection (a) of this Code section the amount of the tax exemptions, decreases, or reduction under this Code section shall constitute an unfair or deceptive act or practice under Part 2 of Article 15 of Chapter 10 of Title 10, the 'Fair Business Practices Act,' as amended, and shall be subject to enforcement by the administrator of said Part 2 in the same manner as any other act or practice constituting a violation of said Part 2 and subject to the same remedies and penalties as any other act or practice constituting a violation of said Part 2.

(f) The commissioner is authorized to prescribe forms and promulgate rules and regulations deemed necessary in order to administer and effectuate this Code section.

(g) This Code section shall stand repealed in its entirety on October 1, 2005."

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